

**STATE OF WEST VIRGINIA  
LAND SALES AND CONDOMINIUM DIVISION  
BEFORE THE LAND SALES AND CONDOMINIUM DIRECTOR  
CHARLESTON, WEST VIRGINIA 25305**

**IN THE MATTER OF:**

**CASE NO.: 12-0033**

**JOHN DOE A/K/A  
ED FRANKLIN,  
ANTHONY SABELLA  
and OTHER UNKNOWN  
INDIVIDUALS D/B/A  
LUXURY CAPITOL GROUP**

**SUMMARY ORDER TO CEASE AND  
DESIST, SUSPENDING EXEMPTIONS  
AND NOTICE OF RIGHT TO  
HEARING**

**RESPONDENTS.**

**SUMMARY ORDER**

Pursuant to the authority granted by the West Virginia Real Estate Time-Sharing Act, (hereinafter "Act")(Article 9, Chapter 36 of the West Virginia Code (2011)), the Division of Land Sales and Condominiums as administered by the Office of the West Virginia State Auditor (hereinafter "Division") has investigated the activities of the above named entity (hereinafter "Respondent"). As a result of the Division's investigation and upon due consideration thereof, the Director of the Land Sales and Condominium Division, by the authority vested in him to enforce and ensure compliance of the Act, does hereby find as follows:

**RESPONDENT**

1. Luxury Capitol Group is a business entity with a last known location of 1100 Dexter Avenue North, Suite 100, Seattle, Washington, 98109 and the last known telephone number of (206) 673-3633.
2. "Ed Franklin" ("Franklin") is an individual representing himself as an employee of Respondent Luxury Capitol Group, with a last known location of 1100 Dexter Avenue North, Suite 100, Seattle, Washington, 98109 and the last known telephone number of (206) 673-3633.
3. "Anthony Sabella" ("Sabella") is an individual representing himself as an employee of Respondent Luxury Capitol Group, with a last known location of 1100 Dexter Avenue North, Suite 100, Seattle, Washington, 98109 and the last known telephone number of (206) 673-3633.

### FINDINGS OF FACT

4. Paragraphs 1 through 3 are incorporated by reference as if fully set forth herein.
5. Respondent Luxury Capitol Group represented itself as a timeshare advertising and rental company.
6. Respondents, Franklin and Sabella represented themselves as employees and representatives of Respondent Luxury Capitol Group
7. On September 14, 2011, Luxury Capitol Group entered into a contract with a West Virginia citizen (hereinafter "Owner") via telephone and represented that it would advertise the sale of the Owner's timeshare located in Conway, South Carolina for a three thousand one hundred dollars (\$3,100.00).
8. On October 25, 2011, Luxury Capitol Group entered into a contract with another West Virginia citizen (hereinafter "Owner") via telephone and represented that it would advertise the sale of the Owner's timeshare which was a Wyndham floating timeshare in the amount of six thousand seventy-five dollars (\$6,075.00).
9. The contracts, executed by the Owners, were required to be sent back to Luxury Capitol Group and payment of the aforementioned fees were also required be paid by their debit/checking accounts.
10. After Luxury Capitol Group procured the upfront payments from the Owners, there was no further contact or communication.
11. No payment for sale or rentals, in any amount, was ever received by the West Virginia Owners, and no evidence of actual sale or rental of the timeshare units were furnished.

### CONCLUSIONS OF LAW

12. Paragraphs 1 through 11 are incorporated by reference as if fully set forth herein.
13. Respondents failed to furnish a fully completed copy of a statutorily compliant purchase contract, containing all applicable required information pertaining to the sale or resale of the time-share plan in violation of *West Virginia Code* § 36-9-5.
14. Respondents failed to honor the request of a purchasers to cancel the contract pertaining to the sale or resale of the time-sharing plan violated *West Virginia Code* § 36-9-9(a).
15. Respondents misrepresented the purchasers' right to cancel in violation of *West Virginia Code* § 36-9-9(b).

16. Respondents failed to refund payments made by the purchasers under the contract in violation of *West Virginia Code* § 36-9-9(c).
17. Respondents failed to file with the Division any and all advertising materials used for the sale or resale of time-shares in violation of *West Virginia Code* § 36-9-10(a).
18. Respondents used advertising materials and/or promotional devices pertaining to the sale or resale of the time-share plan in violation of *West Virginia Code* § 36-9-10(a).
19. Respondents failed to maintain statutorily compliant business records in violation of *West Virginia Code* § 36-9-11(a)-(b).
20. Respondents failed to maintain statutorily required licensure as a real estate salesman, broker, or broker-salesman, pursuant to chapter forty-seven of the *West Virginia code* in violation of *West Virginia Code* § 36-9-18.
21. Respondents failed to pay to the Division the statutorily required annual fee in violation of *West Virginia Code* § 36-9-24.

### **ORDER**

The Director, pursuant to the powers granted in *West Virginia Code* § 36-9-1, *et. seq.*, does hereby **ORDER**:

1. Respondents summarily **CEASE AND DESIST** from soliciting and offering to sell or resell the aforesaid time-share plans or units, either directly or indirectly through officers, directors, employees, representative agent, affiliates, successors or assigns, unless and until compliance with the Act has been achieved and until further Order of the Director.
2. Respondents summarily **CEASE AND DESIST** from contacting West Virginia citizens for the purpose of offering services or advertising materials to sell or resell any time-share or time-share related interest.
3. Any exemptions from the requirements of the Act claimed by the Respondents are hereby summarily **REVOKED AND SUSPENDED** pending final determination of the proceedings herein, and until further Order of the Director pursuant to *West Virginia Code* § 36-9-23(a)-(e)(1-3).
4. Respondents **SHOW CAUSE** within fifteen (15) days after receipt of this Order, through responding to each and every paragraph set forth herein, why this Order should not be made final and permanent and why Respondents should not be ordered to offer rescission to the purchasers of its services.

5. **NOTICE** is hereby given that Respondents may be afforded a hearing in this matter if a written request is made by Respondents, and such request contains a written response to each and every paragraph contained herein. A request for hearing must be in writing and received by the Director within fifteen (15) days after receipt of this Order. If a timely request for a hearing is made, a hearing on this matter will be set for the purpose of determining whether this Order shall be modified, vacated, or made permanent.

6. If the Respondents do not timely show cause or timely request a hearing or fail to attend a duly scheduled hearing in this matter after receiving notice thereof, the allegations contained in this Order will be deemed true without further proof, Respondents shall be deemed in default, and this Order will become final and permanent without further notice to you and an administrated assessment will be imposed in accordance with *West Virginia Code* § 36-9-23(e).

7. Any violation of this Order will constitute a violation of Chapter 36, Article 9, Section 23 of the Act, and if any such violation comes to the attention of the Director, the matter will be pursued in the Circuit Court, and the Respondents may held liable for further civil or administrative penalties.

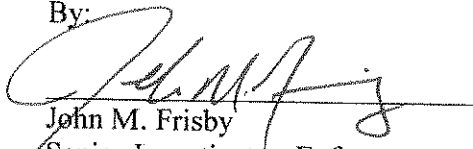
This Order does not prevent the West Virginia Land Sales and Condominium Division from seeking such other civil or criminal remedies that may be available.

ENTERED this 9<sup>th</sup> day of October 2013.

Glen B. Gainer III  
Director of Land Sales and Condominiums

Lisa A. Hopkins, Esquire  
Deputy Director of Land Sales Condominiums

By:

  
John M. Frisby  
Senior Investigator, Enforcement  
West Virginia State Auditor's Office  
Capitol Complex, Bldg. 1, Rm. W-100  
Charleston, WV 25305